



July 6, 2005

Docket No. 05-015-1
Regulatory Analysis and Development
PPD, APHIS, Station 3C71
4700 River Road, Unit 118
Riverdale, MD 20737-1238

Response to Docket No. 05-015-1: National Animal Identification System; Notice of Availability of a Draft Strategic Plan and Draft Program Standards

Dear Docket Clerk:

The National Cattlemen's Beef Association (NCBA) is grateful for the opportunity to provide comments to USDA regarding the National Animal Identification System (NAIS) and the Draft Strategic Plan for 2005 to 2009.

Animal health and disease surveillance for the beef industry has been a long and well established partnership between the industry and state and federal animal health officials. Our organization's founding principals more than 100 years ago were concerned over the need for effective eradication of animal health threats and prevention of foreign animal diseases. We believe it is imperative that everyone clearly understand successful disease prevention and eradication efforts will result only from a strong and effective infrastructure that supports federal, state and industry partnerships.

NCBA supports the goal of being able to identify all animals and premises that have had contact with a foreign or domestic animal disease within 48 hours after discovery. We further support the concept of a system that provides for rapid tracing of infected and exposed animals during an outbreak situation to limit the effect of those outbreaks and ensure they are contained and eradicated as quickly as possible.

The need for additional tools, like animal identification, to help speed the traceback of animals or enhance our ability to provide better disease surveillance/tracking is generally accepted within the industry. The implementation of these tools will require careful consideration to ensure we maintain a true partnership spirit of cooperation and coordination throughout the process. In no way can we allow people to believe that these additional tools will decrease our reliance upon the need for the strong infrastructure of state and federal support that has served us well in the past, protecting both the health of the U.S. cowherd and the interests of consumers.

NCBA's Animal Identification Commission spent countless hours analyzing previous documents from USDA on the issue, and NCBA leadership and staff have met with USDA on numerous occasions to express our views on the NAIS. This issue is of

paramount interest to our producers and the beef industry at large. As a result, NCBA has initiated a number of efforts regarding animal identification and has worked extensively over the past two years developing solutions that meet the needs of USDA and APHIS as well as the needs of our cattlemen and the beef industry.

As stakeholders, we agree with many of the concerns identified in the draft.

Concerns:

Confidentiality — NCBA is deeply concerned with the ability of USDA to truly provide confidentiality of information maintained within a database held by USDA or states. Recent events surrounding Bovine Spongiform Encephalopathy (BSE) investigations clearly show that information related to an investigation can be requested through freedom of information (FOIA) channels and that state and federal agencies have little or no ability to maintain confidentiality of information that can and does cause harm to producers and the industry both in economic terms and in their relationships with others in the industry. While the system must be readily available for the needs of state and federal animal health officials, it must also provide clear protections for producers and their interests. This concern is the principal reason NCBA is in the final stages of development of a single/central national database that will allow appropriate access to animal health officials while protecting producer information in a business setting that better respects confidential business information.

Flexibility — NCBA agrees with stakeholder comments regarding the flexibility and ability of the system to accept data from existing systems. While much of the industry is preparing to implement Radio Frequency Identification Device (RFID) systems, there are numerous systems already in place that provide animal identification and traceback capability. Brand state systems must be considered a fundamental part in the development of any system. The draft does not appear to fully consider the importance of current brand state efforts and the years of reliance upon these highly successful systems. NCBA further believes that effective and established state and regional efforts in the beef and dairy industries must be able to coordinate with any national effort.

The database should have the ability to support information transfers throughout the chain. There is a dramatic need to allow the database to provide additional economic incentives for producers, while protecting that information in a confidential environment. Today there are significant economic benefits to producers able to provide information about their cattle to those further down the chain of ownership — we applaud this economic activity but realize that it goes well beyond the scope of the NAIS. Therein lays a primary reason for NCBA's pursuit of a single, private central database that provides for the appropriate access to state and federal officials and allows producers to further utilize technology for their own economic interests.

Financing — NCBA has various concerns relative to the costs associated with a NAIS. Early estimates of the costs are significantly higher than those requested by USDA throughout the appropriations process, indicating that USDA clearly expects producers and the industry to pay for the majority of the expense of the system. NCBA agrees producers should have a financial stake in the system. NCBA also believe producers should be allowed to use the system (if they so desire) to create economic returns.

A primary barrier to acceptance and utilization of a USDA managed system is that it [NAIS] provides no mechanism nor any ability for economic returns in the system to be passed down to cow/calf producers through traditional marketing channels — the two segments will likely experience the greatest implementation costs over time. Even with the development of a USDA database for animal movements and the expense associated with the operation of such a database, private industry would have to create a private system to allow producers to receive economic incentives for production practices.

NCBA commits to working with USDA and Congress to ensure adequate funding is available for activities related to animal health surveillance, foreign animal disease prevention and disease prevention programs — including premises registration activities already underway with states and tribes. NCBA will not support efforts that can duplicate existing systems or further burden existing systems without providing clear incentives for the producers and markets that will bear the brunt of expense for the system.

Mandatory Participation/Timeline — A significant challenge within the strategic plan will be the transition to mandatory participation based on a number of criteria. 1) The plan depends heavily on “voluntary producer participation” without the ability to provide incentives, economic or otherwise, to encourage participation. This will lead to forced participation in a system that is yet to be BETA tested at a significant level in real world settings, 2) The industry technology solutions currently available are not generally capable of operating at the speed of commerce in traditional marketing systems without significant costs, and 3) Concerns over confidentiality and data storage issues remain major stumbling blocks to industry buy-in.

NCBA believes significant progress can be made through a true partnership of private and public interests allowing for the majority of producers to participate in a system — voluntarily. We have clearly communicated to our members that the program will likely be mandated at some point in the future; however, it remains unclear within the draft what circumstances will result from deviations in the timeline. There appear to be no clear indicators of the Department’s actions if Congress refuses to pass meaningful confidentiality protections. If timelines are not met and systems (technology) cannot meet market operational standards for time, speed and accuracy in a cost effective manner, will USDA reconsider its timeline?

NCBA believes an arbitrary timeline to reach mandatory status merely confuses the true goal of the program – which is to achieve trace back of animals within 48 hours. Industry timelines for reaching significant milestones are much shorter than those identified in the draft plan. The timeline established by the Department should be goal focused, not date oriented. Industry stakeholders are working with date centered timelines for specific product developments based on market conditions and technology improvements — that responsibility should remain with those who will actually utilize the systems.

NAIS Strategic Plan Questions:

NCBA submits the following as answers to the questions published by USDA.

The Draft Strategic Plan calls for making the entire system mandatory by January 2009. Is a mandatory identification program necessary to achieve a successful animal disease surveillance, monitoring and response system to support federal animal health

programs?

We believe the development, over time, of the NAIS should provide state and federal animal health authorities with the most successful animal disease surveillance system possible. We do not believe the system envisioned by some at APHIS – recording every single movement where cattle are commingled with animals from another premises – is workable by January 2009. Furthermore, we believe setting arbitrary dates for such implementation is meaningless until workable solutions can be developed for the dilemmas of tagging, movement scanning and recording of animals. Arbitrary dates will likely force industry to use currently approved technology and practices that will place a significant economic burden on industry. Industry and the government should work together to develop a system that strives to provide the best surveillance system possible, under either a voluntary or mandatory format.

In the current Draft Strategic Plan, the NAIS would require producers to be responsible for having their animals identified before the animals move to premises where they are to be commingled with other animals, such as the sale barn. At what point and how should compliance be ensured? For example, should market managers, fair managers, etc. be responsible for ensuring compliance with this requirement before animals are unloaded at their facility or event?

For epidemiological reasons, animals must be identified or associated with original premises prior to commingling with animals from another premises. There are currently requirements for animals entering interstate commerce; those standards should still apply. Further discussion must continue to determine the standards that will be used for private treaty and commingling conditions. System standards should not be adopted that prove to be an impediment to commerce unless no other options exist. Large numbers of producers do not have facilities on their own properties to brand, tag or individually identify animals. We believe weigh points, livestock markets and “custom tagging stations” may all have a role in identifying animals prior to or while entering commerce. Group lot identification should be utilized whenever possible.

In regard to cattle, individual identification would be achieved with an AIN tag that would be attached to the animal's left ear. It is acknowledged that some producers do not have the facilities to tag their animals; thus, the Draft Program Standards document contains an option for tagging sites which are authorized premises where owners or persons responsible for cattle could have their cattle sent to have AIN tags applied. Do you think this is a viable option or can markets or other locations successfully provide this service to producers who are unable to tag their cattle at their farms?

See answer above.

The current Draft Strategic Plan does not specify how compliance with identification and movement reporting requirements is to be achieved when the sale is direct between a buyer and seller (or through their agents). In what manner should compliance with these requirements be achieved? Who should be responsible for meeting these requirements? How can these types of transactions be inputted into the NAIS to obtain the necessary information in the least costly, most efficient manner?

NCBA sees no option other than trusting one or both parties in such transactions to report such movements. However, in states where inspection authorities have jurisdiction over such movements, brand inspectors can ensure such movements are recorded into the system. In states where such authorities do not exist, we see no other way than to trust the parties in such transactions to report movements. Therefore, we believe that for producers to have “buy-in” and become willing to participate, USDA should adopt systems for movement recording that producers will be most likely to accept and utilize. To this end, we believe producers will be more likely to participate and record movement data in a privately held animal data system as opposed to a government owned and managed system.

USDA suggests that animals should be identified anytime prior to entering commerce or being commingled with animals from other premises. Is this recommendation adequate to achieve timely traceback capabilities to support animal health programs or should a timeframe (age limit) for identifying the animals be considered?

NCBA agrees that identification requirements must consider the epidemiological risks, and those animals should be identified at or prior to entering commerce or commingling environments. Group lot identification, including branding, should be considered for animals moving as a group or lot into and through commerce.

Are the timelines for implementing the NAIS, as discussed in the Draft Strategic Plan, realistic, too aggressive (i.e. allow too little time) or not aggressive enough?

From the perspective of the need to implement a NAIS that will effectively work without causing major economic disruption to the industry, the implementation timeline will be too aggressive if stakeholder concerns identified earlier in this document are not properly addressed.

We understand there is a concern that NAIS is not being implemented fast enough, but implementing a poorly developed plan will result in producers not complying and basically ignoring plan requirements. We continue to caution USDA to implement the plan as the stakeholder concerns are properly addressed.

Should requirements for all species be implemented within the same timelines or should some flexibility be allowed?

NCBA does not have a position on when the plan should be implemented for pork, poultry, sheep and goat or other food animals. We believe the agency should proceed cautiously before implementing the same type of system for horses relative to movement recording. Many horses used on ranches as well as performance horses are moved to and from various premises at very high rates of frequency, and compliance with such a system will be basically impossible to accomplish. Whereas the average beef animal may move on and off approximately three to six premises in their lifetimes, this number can easily run into the hundreds during the lifespan of many horses, thus making movement recording a monumental task.

What are the most cost-effective and efficient ways for submitting information to the database (entered via the internet, file transfer from a herd management computer

system, mail, phone, and third party submission of data)? Does the type of entity (e.g. producer, market, processing plant), the size of the entity or other factors make some methods for information submission more or less practical, costly or efficient?

The flexibility of the database will determine the ability of the system to manage data in varying formats and styles. International experience indicates that consideration of the speed of commerce and the utilization of the best technology for the circumstance to be dealt with suggests flexibility is possible to meet the needs of virtually every producer. Rigid standards for cow/calf producers will serve as a barrier to participation. NCBA does believe the industry must make the transition to useful technologies as quickly as possible. Uniform application of some technologies will greatly enhance the ability of the industry to meet the 48 hour trace back goal established by the Department and supported by NCBA.

The further into the production chain you move, the more system flexibility and system formats become limited. NCBA believes we should strive for common standards at every opportunity and look for technology solutions that meet the needs of all segments of the industry.

We are aware that many producers are concerned about the confidentiality of the information collected in the NAIS. Given the information identified in the draft documents, what specific information do you believe should be protected from disclosure and why?

NCBA believes all producer information should receive protection from disclosure. We believe all available measures should be taken to protect confidentiality of producers' information. First, we believe legislation should be enacted to protect this information. However, recognizing court interpretation of laws often deviates from the intent of Congress, we strongly believe that enactment of a law should not be the sole tool to protect information from being acquired by other agencies or becoming subject to a FOIA disclosure requirement.

More importantly, we believe a FOIA firewall should exist by creating a private data network system that allows all animal information to be maintained outside the control of USDA. Should NAIS ever become mandatory, it is expected that animal data will be stored on a minimum of 60 million cattle owned by at least 1 million cattle producers in the early implementation of the system. Obviously, should unauthorized persons have access to this information, a dangerous situation will exist for producers. Knowing a private data management system can and should provide these animal health agencies with immediate access at any time of the day or night, we urge USDA to allow the industry to provide this service for them.

The NAIS as planned would require states, producers and other participating entities to provide information and develop and maintain records. How could we best minimize the burden associated with these requirements? For example, should both the seller and the buyer of a specific group of animals report the movement of the animals, or is reporting by one party adequate?

NCBA has supported the current guidelines outlined in the NAIS that require movement to be recorded upon delivery of cattle to the receiving premises. We also acknowledge that a dual entry approach for both shipping and receiving entities will ensure greater accuracy of data entered into a system. In the early stages of NAIS implementation, a primary objective of movement reporting should be to make the process as user friendly as possible. Moreover, utilizing the various data entry methods will be a learning process for producers, especially those learning to utilize technologies available for this purpose. We would expect, as industry participants become increasingly familiar and comfortable with the various movement recording methods, USDA could reevaluate whether or not a “double entry” requirement is necessary in the future. We fear that a double entry requirement in the early stages of implementation would create ill will for NAIS, thus limiting participation.

APHIS is requesting comment from stakeholders regarding the utility of a privately managed database for holding animal location and movement information. Among the issues you may wish to comment on are the following: 1) How should a private database system be funded? 2) Should the NAIS allow for multiple privately managed databases? 3) Should a public (government) system be made available as well as a privately managed system so that producers would have choice? 4) Should a privately managed system include all species? 5) Would either system work equally well at the state level?

1) NCBA believes that a single centralized database held in the private sector can and will provide the greatest flexibility in use for USDA. Much of the costs associated with the development in the private sector have been born by existing entities. NCBA’s Animal Identification Commission has estimated that a minimal tag surcharge will adequately cover the costs of implementing a system. All producers would pay the same rate and the system, operated through an independent consortium, could regularly evaluate its operations for greater efficiency.

2) NCBA believes a single private network system should exist that allows an unlimited number of qualified private companies to offer movement recording services to producers and feed such movement information to this system.

3) NCBA believes that government should not offer a system that competes with a private sector network system. We believe that a private system can and should allow producers who do not wish to use a private company to be able to enter movement information at no cost associated with movements. Producers utilizing existing systems should be able to continue to utilize those systems.

4) NCBA believes a privately managed network system should accommodate all species covered by NAIS.

5) With a miniscule amount of funds available to most state animal health agencies, we do not believe states will be able offer an animal database system as efficiently and effectively as a private animal database network. Many producers have an innate skepticism about providing information to state and federal animal health authorities; therefore, we believe the private database network system will work better for both the nation’s animal health authorities and producers alike.

In conclusion, NCBA commends APHIS for providing the industry the opportunity to comment on an issue that will arguably have one of the most significant impacts on the cattle industry of any issue we have faced. There remain several challenges that must be addressed before the NAIS can be implemented in a way that does not place a significant economic burden on producers and the industry's handling and processing infrastructure. This potential burden could not only come in the form of slowing the rate of flow of livestock through our infrastructure (markets, order buying operations, etc.), but would also cost producers in the form of excessive stress, shrink and injury. We strongly urge USDA to take our comments seriously and work with the industry to develop a partnership with the goal of utilizing each other's strengths and resources to implement a system that provides the industry an effective tool to better manage the nation's cow herd and our animal health officials with the best disease surveillance system possible.

Sincerely,

A handwritten signature in black ink that reads "Jim McAdams". The signature is written in a cursive, flowing style with a large initial "J" and "M".

Jim McAdams
NCBA President